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Held at Headquarters, New York, on Thursday, 13 November 2003, at 10 a.m.

Chairman:	Mr. Belinga-Eboutou	(Cameroon)
later:	Mr. Maertens (Vice-Chairman)	(Belgium)
later:	Mr. Belinga-Eboutou	(Cameroon)

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Agenda item 117: Human rights questions

(a) Implementation of human rights instruments

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The meeting was called to order at 10.15 a.m.

Agenda item 117: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/58/118 and Corr.1, 121, 181 and Add.1, 185 and Add.1 and Add.2, 186, 212, 255, 257, 261, 266, 268, 275, 276 and Add.1, 279, 296, 309, 317, 318, 330, 380 and 533; A/C.3/58/9)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/58/127, 218, 219, 325, 334, 338, 379, 393, 421, 427, 448 and 534; A/C.3/58/6)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/58/36)

1. **Ms. Jilani** (Special Representative of the Secretary-General on Human Rights Defenders), introducing her report (A/58/380), said that the report focused on the related issues of the impact of security and counter-terrorism legislation on human rights defenders and the role of the latter in emergencies. There was concern throughout the world that national security legislation was having a negative impact on respect for human rights and on human rights defenders themselves. Some States appeared to believe that human rights standards were obstacles to the implementation of counter-terrorism measures, while some took advantage of security concerns to target human rights defenders. Such thinking gave rise to a wide range of violations of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (known as the "Declaration on human rights defenders"). For example, reports critical of a Government's human rights policy had been treated as threats to national security and human rights defenders had been prosecuted and at times imprisoned for a range of offences such as "defamation of the authorities" which were portrayed as damaging to national security. Some human rights organizations had to meet new registration requirements but when they attempted to register, their applications were turned down on national security grounds, which left them in an illegal situation if they continued their activities. Freedom of assembly, particularly that of pro-democracy activists, had also been violated on the same grounds.

2. In the cases brought to her attention, the most common perpetrators of violations aimed at human rights defenders were the security forces of a country. There was therefore particular cause for concern when anti-terrorism laws gave law-enforcement and intelligence agencies exceptional powers of surveillance and investigation without judicial review.

3. The role of human rights defenders was crucial in emergency situations where human rights violations, including extrajudicial killings and disappearances, were widespread. Defenders could monitor the situation, investigate alleged violations and support victims of the violence and those trying to escape it. She was deeply concerned that in many recent emergency situations human rights defenders had been prevented from fulfilling that role: often they were denied visas to enter the country or faced bureaucratic barriers that prevented or delayed their access to emergency areas or to victims or witnesses. Some of them had been killed, tortured, intimidated or arbitrarily arrested or deported. She was deeply concerned that the exclusion of defenders from their monitoring role in the context of security and counter-terrorism measures and in emergency situations meant that in practice there were fewer guarantees of human rights and democratic principles. It also meant that less information was available to the special procedures of the United Nations, which, in turn, had implications for international peace and security.

4. The killing of the United Nations High Commissioner for Human Rights and other United Nations officials in Baghdad in August 2003 showed the extent to which human rights defenders were falling victim to extremism and terrorism. While she had taken full account in her report of the responsibility of States and the international community in combating terrorism, she feared that measures that undermined human rights and increased the vulnerability of human rights defenders would only further destabilize the political environment. The approach to eliminating threats to peace and security must be adjusted to ensure that respect for human rights was an integral part of the process.

5. **Mr. De Stefani Spadafora** (Italy), speaking on behalf of the European Union, said that the European Union was particularly concerned about situations in which the entire apparatus of the State was implicated in violations of the rights of human rights defenders. He wondered whether the regional approach to the situation of human rights defenders advocated by the Special Rapporteur in her report was compatible with the universality of the Universal Declaration of Human Rights, and asked whether the Special Rapporteur believed that her access to the media in the countries she had visited had helped to enhance public awareness of her work.

6. **Ms. Jilani** (Special Representative) said that publicizing the work of human rights defenders was a crucial aspect of her mandate. She found it particularly important to speak about her findings within the country she was visiting, and to that end she made a point of holding press briefings at the beginning and end of her visits.

7. **Mr. Amorós Núñez** (Cuba) said that he would be interested to know the Special Rapporteur's views on the role and responsibility of individuals and groups considered to be human rights defenders, which were mentioned in the Declaration on human rights defenders but given little prominence in activities to promote its implementation.

8. **Ms. Jilani** (Special Representative) said that she referred to article 18 of the Declaration, which dealt with the role and responsibility of individuals, groups, institutions and non-governmental organizations, in paragraph 65 of her report. She felt it was extremely important to recognize that the Declaration imposed a responsibility on human rights defenders to safeguard democracy, promote human rights and fundamental freedoms and contribute to the promotion and advancement of democratic societies, institutions and processes. That was precisely what they did and it was sometimes the reason why they came under attack.

9. **Ms. Ajamay** (Norway) said that her Government was particularly concerned about the impunity with which human rights defenders could be attacked or intimidated in all regions of the world. She welcomed the emphasis in the Special Rapporteur's report on the effects of security and counter-terrorism measures on the work and safety of human rights defenders, and urged all States to ensure that all such measures — which were sometimes counter-productive in any case — were in keeping with States' obligations under international human rights law. She wondered whether the Special Rapporteur had any suggestions on how the conclusions in her report could be better integrated into the work of the United Nations, including in the promotion of human rights, democracy and the rule of law.

10. **Ms. Jilani** (Special Representative) said that the United Nations had a critical role to play in protecting human rights defenders and in mitigating the negative effects of counter-terrorism measures. It was very important that the United Nations should pay close attention to the information provided by its special procedures on the situation in particular countries. It was equally important that those procedures should be sensitive to the social, political and economic situation in the countries they reported on, and that the information they provided was accurate. She stressed that, under the Declaration, it was the responsibility of States not only to protect human rights defenders but also to create the conditions in which human rights defenders could operate safely.

11. **Mr. Vigny** (Switzerland) said that his delegation strongly supported the recommendations contained in the Special Rapporteur's report, and asked whether she had any suggestions for focusing international attention on local human rights defenders, who were often at greater risk in emergency situations than their international counterparts.

12. **Ms. Jilani** (Special Representative) said that the international community must make every effort to ensure that the situation of local human rights defenders was publicized and that the Governments concerned were well informed about their duties towards them. It was particularly important to guarantee respect for freedom of movement and freedom of expression, which not only allowed the special procedures of the United Nations to have access to local human rights defenders but also allowed the latter to travel outside their country and bear witness to the human rights situation inside it.

13. **Mr. Sinaga** (Indonesia) said that Governments, like human rights defenders, were working towards the promotion and protection of human rights. He would be interested to know the Special Rapporteur's view on the dialogue between human rights defenders and the authorities of the countries in which they were working.

14. **Ms. Jilani** (Special Representative) said that the importance of such a dialogue could not be overestimated. It was important that both parties enter the dialogue in good faith, in a spirit of flexibility and with a willingness to accommodate the legitimate aspirations of the other party. It should also be remembered that it was the responsibility of the State to create the conditions in which a meaningful dialogue could take place: there were examples of good practice in that respect from which all States could learn.

15. **Ms. Ertürk** (Special Rapporteur of the Commission on Human Rights on violence against women, its causes and consequences), introducing her report (A/58/421), said that despite the condemnation of violence against women at many international conferences and summits and despite the obligation of States to exercise due diligence to prevent gender-based violence, women throughout the world continued to suffer from violence in the home, in the community and in places of detention and from violence in the context of armed conflicts, terrorism and the war on terror. The task facing the international community was to go beyond condemnation and expressions of resolve and take firm action to ensure that the rights of women were fully respected everywhere and that they enjoyed equal status with men.

16. In Afghanistan, which she had not been able to visit before compiling her report because of the timing of her appointment as Special Rapporteur, it was vital that women should be included in the reconstruction of the country, as a peaceful and successful society could not be built without their participation. Among the positive developments in the past year had been the ratification of the Convention on the Elimination of All Forms of Discrimination against Women, the pioneering work of the Afghan Independent Human Rights Commission and the Ministry of Women's Affairs, and the participation of a large number of women in preparing the draft of the country's new constitution. Steps must be taken to ensure that women continued to participate fully in the process of reviewing and adopting the draft constitution, as the manner in which the constitution reconciled competing claims and interests as well as the requirements of diverse local traditions had fundamental implications for the status of women and girls.

17. The major obstacle to be overcome if women in Afghanistan were to be able to live their lives free of violence, intimidation and extreme subordination was the lack of security, political stability and a sustainable economic order. Unfortunately, efforts to achieve those goals were being undermined by the fact that forces that stood to gain from maintaining a war economy and from further destabilization were still active. A further problem was that the security of women outside Kabul was threatened by the presence and influence of local commanders who reportedly committed acts of extortion, sexual abuse and other forms of harassment with impunity. There was a danger that new forms of violence and discrimination against women would arise under such conditions of impunity and political instability. The international community should provide the support and resources needed to help the Government extend its authority throughout the country. It was also necessary to determine whether the situation in the provinces was the result of renewed conservatism or the lack of adequate protection against discrimination. To do that, more detailed information was needed: for example, a more realistic picture of the situation with regard to girls' education outside Kabul would be revealed if information on girls' school attendance was disaggregated by province or region.

18. Years of war had left women and girls vulnerable to extreme abuse, often in the name of social norms or tradition. Early and forced marriages were common practice, as were the exchange of girls as a form of conflict resolution, assaults on women under "codes of honour" and domestic violence. Moreover, women continued to be incarcerated for resisting such practices or upon suspicion of engaging in extramarital relations and could be held in supposedly "protective" custody for months. It was essential to find other ways to protect women's rights and freedoms, for example by setting up women's shelters. The criminal justice system needed to be adapted to end impunity for gender-based violence and to provide women victims with the access to justice denied them in both the formal and informal systems of justice. In addition, legislation needed to be amended or introduced and programmes adopted with a view to implementing the Convention on the Elimination of All Forms of Discrimination against Women.

19. A vigorous campaign was needed to promote the full participation of women in the political, social and economic spheres and recognition of the importance of women's potential contribution to the reconstruction of Afghanistan. It was particularly important to incorporate the full range of guarantees of women's

rights in the new constitution. Above all, women should be seen not as merely passive spectators or beneficiaries of change, but as active participants in the process of shaping the future of their country.

20. **Ms. Borzi Cornacchia** (Italy), speaking on behalf of the European Union, asked how the Special Rapporteur envisaged her future programme of work and whether she planned any missions. Also, in view of the concern that women should be more widely consulted in developing the new Afghan Constitution, it was not clear whether the current draft sufficiently guaranteed the promotion of equal rights for women.

21. **Ms. Ertürk** (Special Rapporteur) said that, since her report unfortunately had to be submitted without the benefit of her own first-hand observations, she intended to visit Afghanistan in the near future. Although the Afghan Constitution as currently worded lagged behind international norms on women's rights, it was in the process of development and women's groups both inside and outside the country were agitating for a greater voice to ensure the inclusion of equality provisions.

22. **Mr. Bazel** (Afghanistan) expressed appreciation for the acknowledgement in the Special Rapporteur's report that major positive developments had occurred in his country over the past two years. Afghanistan supported all human rights, including those of women and girls, and had in March 2003 acceded to the Convention on the Elimination of All Forms of Discrimination against Women. The achievement of full human rights for all was a process, and Afghanistan was committed to continuing to work towards the complete realization of the goals it had set itself.

23. **Ms. Maille** (Canada) asked what the international community could do now to further the adoption of measures allowing women to participate fully in the Constitutional Loya Jirga; how the new Special Rapporteur planned to build on the previously established standards and move on to concrete action against gender-based violence; and what the Special Rapporteur saw as the links between action to combat HIV/AIDS and violence against women.

24. **Ms. Ertürk** (Special Rapporteur) noted that the international community had already done much to help, at both the governmental and non-governmental levels, and that women's organizations worldwide had been especially effective. The dialogue she had proposed in her report (A/58/421, para. 24) with women's groups in other Muslim countries that had developed good practices to ensure the full participation of women in society would empower both men and women as promoters of change and lead to further practices that could be emulated.

25. She agreed that concrete action was now the main issue. She herself would be attending a brainstorming, agenda-setting meeting in December sponsored by Canada, and she would also be proposing future strategies at the next session of the Commission on Human Rights, especially in connection with two of its agenda items, the role of men and conflict prevention. She saw four basic policy approaches: the integration of a gender perspective in all policies, including budgeting; the elimination, by a specified target date, of discriminatory provisions from legislation and of discriminatory practices from institutions; the implementation of programmes to increase the alternatives available to women and to empower them; and, lastly, a broader engagement with like-minded men in order to raise awareness about gender inequality as a general societal problem of which violence against women was a symptom.

26. *Mr. Maertens (Belgium), Vice-Chairman, took the Chair.*

27. **Mr. Wenaweser** (Liechtenstein), noting that violence against women was an important element in Security Council resolution 1325 (2000) on women and peace and security, asked whether the Special Rapporteur had sufficient access to the Council to keep women's issues in the forefront.

28. **Mr. Alaei** (Islamic Republic of Iran) said that violence against women took many forms and differed from region to region and country to country. He was confident that the Special Rapporteur would, indeed, focus equally on all its manifestations, whatever the culture and whatever the source.

29. **Ms. Ertürk** (Special Rapporteur) said that she fully intended to meet with representatives of the Security Council in order to continue the tradition of informal meetings established by the previous Special Rapporteur. In the meantime, she had taken part in a non-governmental working group on women, peace and security as a follow-up to Security Council resolution 1325 (2000). Since the adoption of the Beijing Declaration and Platform for Action, there had been many legislative changes in the areas of non-

discrimination and development, but the area of women and peace still presented a major challenge. Rather than a clash of civilizations, the problem was a clash of haves and have-nots in the world, and there had to be a dialogue across civilizations to avert it.

30. She was sympathetic to the view that violence against women was a universal phenomenon, rooted in inequality and especially gender inequality, and that it took different shapes in different societies. Some of its manifestations, however, had to be combated more urgently. She was working on a report on those points.

31. **The Chairman** thanked the Special Representative and the Special Rapporteur for taking part in the Committee's meeting. Such contacts were enriching and essential to the Committee's work.

Agenda item 112: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (*continued*)

Draft resolution A/C.3/58/L.37/Rev.1: Assistance to refugees, returnees and displaced persons in Africa

32. **The Chairman** said that the delegations of Chile, Croatia, Cyprus, the Czech Republic, Denmark, Finland, France, Italy, Japan, Norway, Spain, the former Yugoslav Republic of Macedonia and the United Kingdom had joined in sponsoring the draft resolution, which had no financial implications.

33. **Ms. Ahmed** (Sudan) said that Belgium, Ireland, Lithuania, Luxembourg, Malta, Portugal and Sweden had also become sponsors.

34. *Draft resolution A/C.3/58/L.37/Rev.1 was adopted.*

Draft resolution A/C.3/58/L.38: Assistance to unaccompanied refugee minors

35. **The Chairman** said that the draft resolution, which had no financial implications, was being sponsored also by Azerbaijan, Botswana, Burkina Faso, Burundi, Cameroon, Lesotho, Madagascar, Malawi, Morocco, Mozambique, Namibia, Pakistan, Panama, Qatar, Rwanda, Saint Vincent and the Grenadines, Senegal, Sierra Leone, Somalia, Swaziland, Turkey, the United Republic of Tanzania, Yemen, Zambia and Zimbabwe.

36. **Ms. Ahmed** (Sudan) said that, due to an editorial error, Nigeria had been omitted from the list of original sponsors.

37. In addition to the revisions to the draft resolution which she had read out when introducing it at an earlier meeting, a further revision had been made to paragraph 7, in order to accommodate one delegation: the word "respect" before the words "international humanitarian law" should be replaced by the phrase "comply with their obligations under" and the words "human rights law and refugee law," should be inserted after the words "international humanitarian law".

38. **Ms. Plaisted** (United States of America) said that an amendment had just been proposed orally to paragraph 7 on a very important subject — the law applicable to the conduct of States in armed conflict — and more time should have been allowed for consultations on language agreeable to all delegations. Regarding the substance, it was the consistent position of the United States in all forums that international humanitarian law was the lex specialis that governed situations of war. Although some of its underlying principles were common also to international human rights law, the three bodies of international law in question were distinct, and the language of the draft resolution ought not to blur the distinction.

39. *Draft resolution A/C.3/58/L.38, as orally revised, was adopted.*

Draft resolution A/C.3/58/L.39: Office of the United Nations High Commissioner for Refugees

40. **The Chairman** said that he had been advised that the draft resolution contained no programme budget implications. Algeria, Andorra, Azerbaijan, China, Colombia, Egypt, Georgia, Guinea-Bissau, Kazakhstan, Madagascar, Malta, Namibia, Nigeria, the Republic of Moldova, Rwanda and Zimbabwe had joined the sponsors.

41. **Mr. Neustrup** (Denmark) said that Antigua and Barbuda, Bahamas, Bolivia, Brazil, Burundi, the Democratic Republic of the Congo, El Salvador, Estonia, Gambia, Grenada, Haiti, Kyrgyzstan, Mali, Mauritania, Nauru, Saint Vincent and the Grenadines, Samoa and Uganda had also joined the sponsors.

42. *Draft resolution A/C.3/58/L.39 was adopted.*

Draft resolution A/C.3/58/L.40: Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees

43. **The Chairman** said that he had been advised that the draft resolution contained no programme budget implications. In addition, Cameroon, Ethiopia, Kenya, the Niger, Nigeria, Sierra Leone, Somalia, the Sudan and Zimbabwe had joined the sponsors.

44. *Draft resolution A/C.3/58/L.40 was adopted.*

Draft resolution A/C.3/58/L.41: Implementing actions proposed by the United Nations High Commissioner for Refugees to strengthen the capacity of his Office to carry out its mandate

45. **The Chairman** said that he had been informed that the draft resolution contained no programme budget implications.

46. **Mr. Neustrup** (Denmark) said that, in paragraph 2, the word "questions" in the third line should be deleted. Armenia, Belgium, Cyprus, the Democratic Republic of the Congo, Eritrea, Lithuania, Monaco, New Zealand, Serbia and Montenegro and the United Republic of Tanzania had joined the sponsors.

47. **The Chairman** said that Botswana, Burkina Faso, Cameroon, Colombia, Ethiopia, Ghana, Jordan, Latvia, Namibia, the Niger, Nigeria, Swaziland and Timor-Leste also wished to join the sponsors.

48. *Draft resolution A/C.3/58/L.41, as orally revised, was adopted.*

Draft resolution A/C.3/58/L.43: Follow-up to the Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in Countries of the Commonwealth of Independent States and Relevant Neighbouring States

49. **The Chairman** said that he had been advised that the draft resolution contained no programme budget implications. Afghanistan, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Finland, Germany, Greece, Japan, Lithuania, Luxembourg, Malta, the Niger, Poland, Slovakia, Slovenia, Sweden, the former Yugoslav Republic of Macedonia and Turkmenistan had joined the sponsors.

50. *Draft resolution A/C.3/58/L.43 was adopted.*

Agenda item 116: Right of peoples to self-determination (*continued*)

Draft resolution A/C.3/58/L.32: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

51. **Mr. De Barros** (Secretary of the Committee), referring to paragraphs 14 and 16 of the draft resolution, said that the Special Rapporteur's mandate fell under perennial activities, for which provision had already been made in the current biennium and also in the biennium 2004-2005; hence, no additional appropriation would be required.

52. **The Chairman** said that China, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Ethiopia, Gambia, Ghana, Guinea-Bissau, Lesotho, Madagascar, Malawi, Namibia, Nigeria, United Republic of Tanzania, Zambia and Zimbabwe had joined the sponsors of the draft resolution.

53. **Mr. Amorós Núñez** (Cuba) said that Benin, Cambodia, the Comoros and Pakistan also wished to sponsor the draft resolution. It was more important than ever to address the issue of mercenaries, and the draft resolution had the support of the majority of members of the Committee.

54. **The Chairman** said that a recorded vote had been requested.

55. **Mr. Cavallari** (Italy), speaking in explanation of vote before the vote on behalf of the European Union, the acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia and the associated countries Bulgaria, Romania and Turkey, said that the European Union shared many of the concerns about the dangers of mercenary activity expressed by the Special Rapporteur, especially regarding the impact of mercenary activity on the duration and nature of armed conflicts. However, those delegations regretted that they could not support the draft resolution. They continued to doubt that the Third Committee was the right forum to deal with the problem of mercenary activity and whether the High Commissioner for Human Rights should be asked to devote priority attention to that subject. While recognizing the dangers of mercenary activity, they questioned dealing with the use of mercenaries primarily as a human rights problem and as a threat to the right of peoples to self-determination. The relationship between terrorism and

mercenary activity also did not seem to fall within the mandate of the Committee. They shared the view that the consideration of the use of mercenaries and the elaboration of a legal definition of the term fell within the competence of the Sixth Committee.

56. *A recorded vote was taken on draft resolution A/C.3/58/L.32.*

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukraine, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Zambia, Zimbabwe.

Against:

Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Israel, Italy, Japan, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Poland, Rwanda, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Andorra, Australia, Austria, Bosnia and Herzegovina, Cyprus, Greece, Ireland, Kazakhstan, Latvia, Liechtenstein, Malta, Nauru, New Zealand, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey.

57. *Draft resolution A/C.3/58/L.32 was adopted by 111 votes to 23, with 27 abstentions.*

58. **Mr. Moritán** (Argentina), speaking in explanation of vote, said that, although his delegation had voted in favour of the draft resolution, in its view the reference to the principle of self-determination in the fourth preambular paragraph was not relevant to the subject, as the General Assembly had adopted numerous resolutions regarding non-self-governing territories.

59. **Ms. Davtyan** (Armenia) said that the conflicts in the southern Caucasus region provided a good example of the use of mercenaries as a means of violating human rights. It was worrying that hundreds of such mercenaries, many of whom had links with Al-Qaida, were still to be found in the region. Thus, her delegation had voted in favour.

60. **Mr. Begg** (New Zealand), speaking also on behalf of Canada, Australia, Switzerland, Liechtenstein and Norway, said that those delegations had been unable to support the draft resolution. They recognized that the use of mercenaries raised complex issues related to human rights, State sovereignty, impunity and international law. They were disappointed, however, that instead of addressing those topics, the resolution had focused narrowly on self-determination, and was politically motivated. Instead of focusing on the human rights and criminal implications of the problem, it had addressed aspects that were largely historical and increasingly out of date.

61. The Special Rapporteur's report contained a proposal for an amendment to the definition of mercenaries. The time had come for the resolution to be redrafted to take into account recent developments and the work of the Special Rapporteur. He hoped that, at the next session, open informal consultations would be held to allow delegations to debate the criminal and human rights aspects of the issue.

62. **Mr. Israfilov** (Azerbaijan) said that his delegation had voted in favour of the draft resolution because it believed that the right to self-determination

had been blatantly violated through the use of mercenaries. It also wished to draw attention to the abuse of the principle of self-determination, which had been used by minorities as a pretext to secede from or dismember States.

Draft resolution A/C.3/58/L.35: The right of the Palestinian people to self-determination

63. **The Chairman** said that draft resolution A/C.3/58/L.35 contained no programme budget implications. The following countries had become sponsors of the draft resolution: Afghanistan, Andorra, Antigua and Barbuda, Armenia, Azerbaijan, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Bulgaria, Cape Verde, Chile, Comoros, Croatia, Democratic Republic of the Congo, Democratic People's Republic of Korea, Ecuador, Eritrea, Estonia, Gambia, Germany, Guinea-Bissau, Guyana, Hungary, Iceland, Japan, Lao People's Democratic Republic, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Mauritania, Monaco, Mozambique, Namibia, the Netherlands, Norway, Poland, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Sierra Leone, Slovakia, Slovenia, Somalia, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine and Zimbabwe.

64. **Mr. Cavallari** (Italy), speaking in explanation of vote before the voting on behalf of the European Union, the acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the associated countries Bulgaria, Romania and Turkey, and, in addition, Iceland and Norway, said that, as in previous years, the European Union would vote in favour of the draft resolution. It wished to reiterate its firm commitment to enabling the Palestinian people to fulfil their unconditional right to self-determination, including the possibility of establishing a sovereign State. Thus, it was encouraged that the international community, including the Middle East Quartet, had affirmed the objective of two States, Israel and Palestine, living side by side within secure and recognized borders, and it was actively engaged in the efforts of the Quartet to seek a definitive settlement in accordance with the resolutions of the Security Council and the road map. Likewise, the European Union strongly supported the Palestinians in their efforts to hold elections as early as possible in 2004.

65. *At the request of the representative of the United States, a recorded vote was taken on draft resolution A/C.3/58/L.35.*

In favour:

Afghanistan, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

None.

66. *Draft resolution A/C.3/58/L.35 was adopted by 159 to 2, with 0 abstentions.*

67. **Mr. Luria** (Israel) said that Israel recognized the right of peoples to self-determination throughout the world, including the right of the Palestinian people to self-determination. Israel did not want to dominate Palestinians or control their destiny. It was committed to the vision of peace in the Middle East and to the implementation of the road map based on a two-State solution. Nevertheless, the right to self-determination was not a blank cheque legitimizing any action; it had to be exercised with respect for the right of others to self-determination.

68. The draft resolution prejudged the outcome of permanent status negotiations and undermined the ability to conclude them. The goal of self-determination was hindered by such one-sided resolutions that traditionally ignored the context of the conflict and Israel's right to live in the region under its own sovereignty, free from terrorism.

69. **Mr. Laurin** (Canada) said that Canada fully supported the right of the Palestinian people to self-determination and the creation of a Palestinian state, but it believed that the interests of the Palestinians and the peoples of the region as a whole would be best served if that right was exercised through the negotiation process. Canada had voted in favour of the draft resolution because it endorsed the right of the Palestinian people to self-determination and emphasized the importance of the negotiation process. Canada also supported the draft resolution's affirmation of the right of all States in the region to live in peace. Lastly, Canada wished to emphasize the need for the immediate resumption of negotiations between the parties under the road map.

70. **Mr. Choi** (Australia) said that Australia had voted in favour of the draft resolution because it had consistently supported the Palestinian right to self-determination and the realization of two States, Israel and Palestine, living side by side within secure and recognized borders, as set out in Security Council resolution 1397 (2002). His delegation would however have preferred that the draft resolution mention the road map to Middle East peace endorsed by the international community. The Palestinian Authority must take firm action to end the violence in order to realize statehood.

71. **Ms. Rasheed** (Observer for Palestine) said that her delegation wished to express its appreciation for the positive result of the vote. The right of the Palestinian people to self-determination remained a central issue for resolving the conflict in the Middle East, and the reaffirmation of that right by the international community provided hope to the Palestinian people.

72. Nevertheless, it was necessary to refer to the negative vote cast by Israel, which served as additional proof that the Israeli Government rejected a real peace settlement based on the existence of two States. Any settlement had to begin with mutual respect and recognition, because the right to self-determination was not an outcome of negotiations, but a prerequisite.

73. Her delegation was also surprised that the United States delegation, which had repeatedly affirmed its vision for the region, in which two States, Israel and Palestine, lived side by side, could vote against a draft resolution that supported the right of the Palestinian people to exercise their inalienable right to self-determination. Such a contradiction was not only confusing but also deeply disappointing and brought into question the ability of the United States to play the role of an honest broker in resolving the situation. A vote against a people's right to self-determination went against the ideals and history of the United States itself, for it was President Woodrow Wilson who had fathered the concept of the right to self-determination.

74. Achieving peace in the Middle East required a solution that recognized and guaranteed the basic rights of both peoples. Her delegation hoped that it would not be necessary to propose a similar draft resolution in 2004; however, if one was required it trusted that the Committee would adopt it unanimously.

75. **Mr. Roshdy** (Egypt) said that, as the main sponsor of the draft resolution, he wished to thank all those who had voted in favour and noted that it was the first time that there had been no abstentions. He hoped that it would be the last time such a resolution was presented; however, he was not optimistic because there still appeared to be those who did not believe in the right to self-determination or that all human rights were applicable to all people.

76. Palestine would be free whether Israel wanted it to be or not. Instead of lecturing the Committee on the road map, he called on the representative of Israel to give a clear statement on how the Israeli Government proposed to proceed with the map. The Israeli representative had

said that the resolution was prejudging the outcome of negotiations; where were the negotiations and where was the peace process? What could be objected to in a draft resolution that spoke of the right of everyone to live in peace? There appeared to be a double standard when talking of human rights, because there were those who talked about them but did nothing to put them into practice.

77. **Ms. Noman** (Yemen) said that her delegation appreciated the efforts of the Commission on Human Rights to investigate the human rights situation in different parts of the world. However, there appeared to be no transparency when dealing with human rights questions; States were chosen selectively and human rights issues were used to exert political pressure in order to achieve economic and other interests. Meanwhile, gross violations of human rights were ignored, particularly in the occupied Palestinian territory, with the assassination of children and women and the destruction of property. Therefore, Yemen would not participate in voting on any draft resolution dealing with human rights in specific States.

Agenda item 117: Human rights questions

(a) Implementation of human rights instruments

Draft resolution A/C.3/58/L.42: Torture and other cruel, inhuman or degrading treatment or punishment

78. **The Chairman** said that the draft resolution contained no programme budget implications. The following countries had become sponsors: Andorra, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Benin, Bolivia, Burkina Faso, Cape Verde, Côte d'Ivoire, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Jordan, Kenya, Lithuania, Malawi, Mali, Malta, Mauritius, Federated States of Micronesia, Monaco, Namibia, Niger, Paraguay, South Africa, Turkey and Ukraine.

79. **Mr. De Barros** (Secretary of the Committee) said that the word "and" should be inserted after the words "on 25 June 1993" in paragraph 2, and the word "Welcomes" should be replaced by the expression "Notes with appreciation" in paragraph 17.

80. By paragraph 27, the General Assembly would request the Secretary-General to ensure the provision of adequate staff and facilities for bodies and mechanisms involved in combating torture and assisting victims within the overall budgetary framework of the United Nations. The General Assembly had appropriated over $47 million under section 24, Human rights, for the biennium 2002-2003 and the proposed programme budget of just over $53.5 million for section 24 for the biennium 2004-2005 included an adequate provision for the Committee against Torture. The Secretariat drew the Committee's attention to part B, section VI, of General Assembly resolution 45/248, in which the Assembly reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

81. *Draft resolution A/C.3/58/L.42, as orally revised, was adopted.*

Draft resolution A/C.3/58/L.45: International Covenant on the Protection of the Rights of All Migrant Workers and Members of Their Families

82. **The Chairman** said that draft resolution A/C.3/58/L.45 contained no programme budget implications. The following countries had become sponsors of the draft resolution: Bangladesh, Bolivia, Burkina Faso, Cape Verde, Dominican Republic, Democratic Republic of the Congo, Ecuador, Egypt, Ethiopia, Gambia, Honduras, Mali, Niger, Nigeria, Paraguay, Senegal, Sudan, Tunisia and Uganda.

83. **Mr. De Barros** (Secretary of the Committee) said that by paragraph 6, the General Assembly would request the Secretary-General to make the necessary provisions for the timely establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families referred to in article 72 of the Convention. A provision of $178,700 had already been included in the proposed programme budget for the biennium 2004-2005.

84. **Mr. Simancas** (Mexico) said that the word "urgently" should be eliminated from paragraph 4; the words "Expresses its appreciation" should be replaced by the words "Takes note of" in paragraph 5, and the words "in due time" should be replaced by the words "in a timely manner" in paragraph 7.

85. *Draft resolution A/C.3/58/L.45, as orally revised, was adopted.*

The meeting rose at 1.10 p.m.